UNITED
NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/SR.1673
17 July 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1673rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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GE.98-16837 (E)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Ecuador (CCPR/C/84/Add.6)

1. At the invitation of the Chairperson, Mr. Gallegos Chiriboga, Mr. Guzmán, Mr. Rodas and Mr. Castrillón (Ecuador) took places at the Committee table.

2. The CHAIRPERSON, having welcomed the delegation of Ecuador, said she took the opportunity of expressing, on behalf of the Committee, special thanks to Ecuador for the 22 years of distinguished service to the Committee of Mr. Prado Vallejo, who would be greatly missed on account of his technical expertise, experience and general talents. She invited the head of the Ecuadorian delegation to make an introductory statement.

3. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the career of Mr. Prado Vallejo as a distinguished defender of human rights in the Committee was a corollary to his many years of political work in Ecuador in support of the principles of democracy.

4. In its fourth periodic report and the addendum thereto, the Government of Ecuador sought to highlight the progress made in the field of human rights and to do so with the greatest possible degree of openness and honesty. Significant advances had been made in three areas since the submission of the fourth periodic report, the first being the establishment of a new legal order. By a referendum in May 1997, the Ecuadorian people had decided to convene a constituent assembly for constitutional reform. On 25 May 1998, that assembly had adopted a new constitution which incorporated all the rights deriving from Ecuador's international commitments and its respect for fundamental human rights.

5. Secondly, as part of the commemoration of the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights, a National Human Rights Plan, regarding which all sectors of civil society had been consulted, had been unveiled on 10 December 1997. The Plan, which outlined specific activities in connection with a wide range of rights and established a number of basic objectives, would enable Ecuadorian society to internalize human rights as individual values.

6. The third achievement in the area of human rights involved a cooperative project for the elaboration of human rights reports. A technical cooperation programme with the Office of the High Commissioner for Human Rights would enable such reports to be prepared by an interdisciplinary committee with the participation of civil society. The addendum to the report was the first fruit of that programme and, as such, had been somewhat delayed.

7. There was also an innovative cooperative project to strengthen the country's capacity to implement the National Human Rights Plan. Although Ecuador was undergoing one of the most severe economic crises in its history, the Government intended to make a contribution in kind to the Office of the

High Commissioner for Human Rights whereby Ecuadorian citizens would work with the Office as part of an "external debt swapping arrangement". The first project of its type, it would enable his country to contribute human resources in lieu of the financial resources that it lacked.

8. Mr. LALLAH said that there had been several references by the head of the Ecuadorian delegation to an addendum to the report. He would like to know what document was meant and where it could be found.

9. Mr. GALLEGOS CHIRIBOGA said that, since the fourth periodic report did not cover some recent and important achievements in the field of human rights, his Government had submitted an addendum to supplement the report. It was his understanding that time constraints had prevented the addendum from being distributed. The United Nations Office at Geneva had been unable to produce a translation of the 35 pages of Spanish in question because of the ongoing Rome Conference on the Establishment of an International Criminal Court. That was a most unfortunate development since his Government had prepared the document with a view to providing the Committee with the best and most up-to-date information on the human rights advances made in Ecuador in recent months.

10. Mr. de SAYAS (Secretary of the Committee) said that the addendum to the fourth periodic report of Ecuador had been received 10 days previously, together with the written replies to the questions in the list of issues. The Committee secretariat had inquired about the translation of those documents and had been informed that, in view of the deadlines for translation services, the addendum could not be translated, but that an attempt would be made to translate the replies to the list of issues. Unfortunately, that translation was not yet available either.

11. The CHAIRPERSON said that that regrettable incident was but another in the long series of problems encountered in connection with the Committee's working conditions. In response to a query by Mr. YALDEN, she said the Spanish language version of the addendum would be made available to the members of the Committee who requested it.

12. Mr. LALLAH said it was unfortunate that the secretariat had not informed the Committee of the existence of the addendum and of the fact that it could not be translated.

13. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that, as Vice-Chairman of the Commission on Human Rights, he deplored the fact that budgetary restrictions on human rights bodies were undermining their capacity to carry out their work and to defend human rights. The Commission would be taking a close look at the effect of those restrictions on the work of human rights specialists such as the members of the Committee.

14. Turning to the first question in the list of issues (CCPR/C/63/Q/ECU/1), he gave the following information on the number of women involved in political decision-making. In 1990, no woman had held a ministerial post, while 15 per cent of all under-secretaries and 14 per cent of department heads had been women. In 1992, 26 per cent of the directors and staff in the highest echelons of the civil service had been women. By 1997, a woman had become Vice-President of the Republic, there were three female ministers and women

presided over the Council on Indigenous Nationalities and the National Council for Women. Two women had been candidates for the Presidency in the most recent elections.

15. In terms of the access of women to decision-making positions in the civil service, he said that 26 per cent of such positions were currently occupied by women. The number of women employed in the educational sector had increased. In the 1990/91 school year, 56 per cent of teachers at all levels had been women whereas, in the 1995/96 school year, 59 per cent of all academic, administrative and service staff had been women.

16. In 1994, only one woman, representing 4 per cent of the total, had held a high position in the judiciary, serving as Secretary of the Supreme Court, and five women, or 3 per cent, had served as judges at the high court and district court levels. In the Quito High Court, two judges, or 3.8 per cent of the total, had been women. In 1996, one of the 28 justices of the Supreme Court had been a woman. In 1997, 7 per cent of the nominees to the Supreme Court had been women. The methods of filling posts on the Supreme Court had been modified under the recent constitutional reform with a view to depoliticizing the process.

17. In 1994, there had been a number of woman judges in courts dealing with specific matters, such as leasing and employment. Of the 571 judges in the district courts, 14 per cent had been women. In 1997, six women had been in charge of specialized police stations for women and the family in six of the country's provinces. More such specialized police stations had recently been opened.

18. In 1989, 7.1 per cent of all diplomatic posts had been held by women; in 1994, 15 per cent of diplomatic staff and 18 per cent of consular staff had been women. A total of 74 non-governmental organizations (NGOs) working for the advancement of women had been recorded in the country in 1990, 34 per cent at the national level and 66 per cent at the regional level. A total of 692 social development organizations had been recorded in 1994-1995, 238 of them working with children and 212 with women.

19. In response to the Committee's request for current data on the number and proportion of Afro-Ecuadorians and indigenous people in the political life of the country, he said that four indigenous persons had been elected as deputies at the regional, and one at the national level, in the 1996 elections. Two indigenous persons had been elected to the constituent assembly. There were a few indigenous persons working in the public sector, principally in such areas as bilingual intercultural education, and serving on a national council established to promote the rights of indigenous peoples and Afro-Ecuadorians. Ecuador was somewhat limited in its ability to provide statistics by the high cost of the exercise, especially during the severe economic crisis of recent years, and by the magnitude of population movements in rural areas, which made monitoring very difficult.

20. The Government was implementing a national action plan as part of its effort to combat the high rate of infant mortality which had already resulted in a drop in the mortality of children aged under five and in fewer deaths from measles and acute respiratory infections. Maternal mortality and deaths

of infants aged less than one year had risen, however, and immunization rates, the provision of institutional care during childbirth, water supplies and sewage disposal had worsened. The main reason for those developments was the destruction of major sections of the coastal infrastructure by El Niño. The Ministry of Health had deployed major efforts to contain epidemics, with the encouraging result that Ecuador had been spared the spread of diseases seen in other countries.

21. No cases of poliomyelitis had been recorded in the country since 1991, thanks to a long-running immunization campaign accompanied by an effective follow-up system. Immunization coverage against tuberculosis was almost 99 per cent, one of the highest rates in Latin America. Ninety-nine per cent of the salt for human consumption had an adequate iodine content, and 97 per cent of the population was consuming salt, which would essentially eliminate disorders related to iodine deficiencies, especially mental disorders among children.

22. By the end of 1995, 78 of the 141 hospitals nationwide had been designated "Friendly to mothers and children" for promoting breastfeeding and overnight parental stays and for not using breast milk substitutes to feed newborns. Those efforts had reduced the risk of malnutrition, disease and death among infants. The health sector was undergoing reform and public spending on health was to be increased to 10 per cent of the overall State budget.

23. Poverty was Ecuador's greatest threat, as economic constraints prevented the Government from expanding the social services. The external debt burden was one of the major drains on the national budget, diverting resources from and preventing investment in the neediest social sectors.

24. Mr. GUZMAN (Ecuador) said that the question about the proportion of Afro-Ecuadorians and indigenous people in the population seemed rather a strange one in the Ecuadorian context, owing to the country's high degree of social mobility and social integration. Within the broad range of a mestizo population, it was only militant groups that claimed racial differences. Many members of Congress had racial ties to the indigenous population but they acted as representatives not of the indigenous people but of Ecuadorian citizens. Many people holding high positions in the political, economic, social and economic life of the country were of indigenous or Afro-Ecuadorian ancestry.

25. The problem of the high rate of infant mortality was being tackled through distributions of food supplements in the country's rural areas as well as through efforts to promote breastfeeding. Those programmes were being implemented without any discrimination as to the racial composition of the beneficiaries and were already reflected in appreciable improvements in the infant health situation. Any disadvantages still being suffered by women in respect of participation in the political, economic, social and cultural life of the country were the result not of discrimination but of social and economic conditions that were being rapidly overcome. The number of women students at colleges and universities was at least equal to that of men; for example, the majority of law students were women.

26. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that, as already pointed out, the recent constitutional reform had brought about enormous changes in the area of women's rights. Although widespread poverty was still restricting women's opportunities to acquire a higher education and to achieve equality with men, significant changes had been taking place of late, not least as a result of the establishment of the National Council for Women in March 1997.

27. Mr. GUZMAN (Ecuador) said that equal rights and opportunities for women were expressly established in the Constitution, while a number of special rights and privileges for nursing mothers, working women, female heads of household and pregnant women were provided under the new Labour Code. Any kind of discrimination against women at work was expressly prohibited. The concept of "productive work" had recently been expanded to include unpaid domestic work. The State was formulating and implementing policies designed to achieve equality of opportunities for men and women and was progressively incorporating gender rules into its economic and social plans and programmes. It was thus actively creating special conditions to promote women's right to equality.

28. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the total number of complaints of violence against women received over a three-year period was 22,820, 5,705 complaints having been received in the past six months. Some three quarters of the complaints had been lodged by the victims themselves and the remainder by relatives, lawyers and third parties. It should be noted that police stations dealing specially with cases of violence against women ("Comisarìas de la Mujer") had recently been increased from 22 to 35. Another important development was the approval by the Supreme Court of Justice of a project for the establishment of family courts, in which the National Council for Women was to take part by providing training for future judges. Lastly, it should be noted that, by a decision of the National Congress, sexual harassment was henceforth to be considered a punishable offence.

29. Mr. GUZMAN (Ecuador) said that the special police stations for women, whose number had more than doubled in the last year or two, were engaged in many activities ranging from following up complaints and issuing arrest warrants to providing courses in women's rights. Their role in bringing offenders to book was dramatically illustrated by a recent case in which a man accused of violence by his wife had committed suicide in the presence of the investigating officer. According to the information provided by the National Council for Women, there had been 20 criminal trials involving violence against women between April and October 1996.

30. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that article 18 of the Human Rights Plan he had already mentioned provided for specific action to mobilize public opinion in support of a new cultural model favourable to children and adolescents. The National Institute for Children and the Family, together with the Ministry of Social Welfare, had formulated a number of programmes designed to curb violations of children's rights. A special department for the protection of childhood and adolescence ("Defensoría de la Niñez y Adolescencia") had also set up offices in various parts of the country with

a view to helping children and teenagers at risk. In a country where 50 per cent of the population was under 19 years of age, protection of the rights of the child was a matter of paramount importance.

31. Mr. GUZMAN (Ecuador) added that a special unit for the protection of children had been established within the national police.

32. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the implementation of the Juvenile Code relating to employment of minors was being monitored, inter alia, by a recently established inter-institutional group. As far as the prevention of child labour and of the economic exploitation of children was concerned, no particular difficulties had arisen in respect of child labour in the formal sector of the economy, where the ban on employment of minors under the age of 14 was generally respected. On the other hand, many children felt they had a duty to help their parents in their neighbourhood shops, cottage industries, etc. Participation in such activities could hardly be described as child labour and still less as exploitation. No coercion was involved and the child could generally combine such work with school attendance.

33. Ms. Medina Quiroga, Vice-Chairperson, took the Chair.

34. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that some isolated cases of arbitrary deprivation of life and enforced disappearance in Ecuador did not constitute a systematic practice of violation of human rights. Nevertheless, some difficulty did exist in that area and his Government was making every effort to introduce reforms and to monitor the relationship between civil society and the police. In particular, it had recently embarked upon a process of compensating the families of victims who had lost their lives over the past decade as a result of arbitrary actions by the police and the military. The amounts paid in compensation could be considered as sizeable in the light of Ecuador's economic possibilities. He was not aware of any recent reports of cases of extrajudicial execution, disappearance, torture or other inhuman or degrading treatment or punishment, or death in custody.

35. Mr. GUZMAN (Ecuador) said that his Government had adopted a harder line on genocidal crimes than some of its neighbours. The new Constitution proclaimed such crimes to be imprescriptible and no amnesty for their perpetrators was possible.

36. The amount of compensation paid to the family of Professor Consuelo Benavides was US$ 1 million and the Government was committed to naming a number of schools and streets in her honour. Agreements as to compensation had been reached with the families of other victims. The necessary funds were to be recovered from the estate of the guilty officials. In the case of the seven peasants arbitrarily detained and tortured by the police near the frontier with Colombia, compensation was to be paid to the community concerned.

37. All complaints of illegal use of weapons by the police were immediately investigated and legal action was taken under civil or criminal law.

38. Efforts to speed up the trial and sentencing process included the building of new detention centres in various parts of the country. However, it was not yet possible to ensure that persons in pre-trial detention were held separately from those already sentenced.

39. Mr. GUZMAN (Ecuador) quoted article 24 of the Constitution, which stipulated that an arrested person must be clearly informed of the reasons for his arrest and the identity of the authority who ordered it, the officers who carried it out and the persons conducting the interrogation. An arrested person had also to be informed of his right to remain silent, to request the presence of a lawyer and to communicate with a relative or any other individual.

40. Anyone who made an arrest, with or without a written warrant from a judge, and was unable to prove that the arrested person had been handed over immediately to the competent authority was liable to punishment. Nobody could be interrogated without the assistance of a defence lawyer of his own choice or appointed by the State. Evidence obtained in pre-trial legal proceedings that failed to comply with that stipulation was inadmissible.

41. Pre-trial detention could not be extended beyond six months in the case of offences punishable by ordinary imprisonment and beyond one year in the case of offences punishable by rigorous imprisonment.

42. As a result of the decriminalization of the consumption of drugs or psychotropic substances, a large number of detainees had been released. Furthermore, the State had intensified its prison building and extension programme to deal with the problem of overcrowding.

43. Ms. Chanet resumed the Chair.

44. Mr. GALLEGOS CHIRIBOGA (Ecuador) drew attention to the involvement of NGOs in the inspection of places of detention with a view to detecting cases of wrongful detention and ensuring the release of the persons concerned. The National Human Rights Plan also placed considerable emphasis on the need to improve the conditions of detention.

45. Mr. GUZMAN (Ecuador) quoted article 23 of the Constitution, which required the State and other public-sector bodies to compensate private individuals for any loss or damage suffered as a consequence of the acts of their officials and employees in the performance of their duties. The Constitution further stipulated that the law should classify such transgressions and establish the administrative, civil and penal responsibility of natural or legal persons for breaches of the rules that guaranteed the freedom and security of individuals.

46. Mr. GALLEGOS CHIRIBOGA (Ecuador), replying to the question on states of emergency, said that non-derogable rights were protected by the remedies that had already been mentioned and by the Constitution itself. The addendum to the fourth periodic report gave specific details of the scope of the suspension of certain constitutional guarantees during states of emergency. It was most regrettable, therefore, that the addendum had not been made available to the members of the Committee in all the working languages.

47. The CHAIRPERSON said that the fact that the Committee was not familiar with such an essential document had certainly made its dialogue with the delegation a great deal more difficult.

48. Ms. MEDINA QUIROGA said that, although the report frankly acknowledged the need for an improvement in the participation of women in political and economic life, she felt that the authorities themselves needed to change their attitudes. For example, they could do something about the fact that only 7.1 per cent of diplomats were women. According to paragraph 57 of the report, the Labour Code required firms employing 35 or more female workers to provide a day-care service, the implication being that only women were responsible for child care.

49. According to the statistics in the report, the average number of years' schooling of women aged 24 and over had declined between 1990 and 1994, from 4.7 to 3.8 years in the case of women in rural areas. The significant increase in the drop-out rate for females over 15 years of age suggested that the young women concerned were either rearing families or doing housework.

50. Had the Ecuadorian authorities considered decriminalizing abortion to save mothers' lives and in the case of rape? Abortion was currently tolerated only where a rape victim was mentally handicapped. A juvenile victim of rape, on the other hand, was forced to carry her pregnancy to term, with all the attendant social and educational consequences. That surely amounted to cruel or inhuman treatment. Moreover, where an abortion was needed to save the life of the mother, the permission of a medical board was required. In view of the authorities' extremely severe attitude to abortion, it was to be hoped that women, particularly poor women, had unrestricted access to contraceptives and that there was provision for sex education in the schools.

51. She noted from the addendum to the report that the Constitutional Court had suspended the provision whereby persons held in pre-trial detention for drug trafficking offences, unlike other detainees, could not be released after a period of detention equal to or more than one third of the maximum penalty for the crime of which they were accused. She wished to know more about the scope of the decision, in particular whether it had erga omnes status.

52. She asked whether a defence lawyer was made available immediately to arrested persons free of charge.

53. She gathered that refugees without proper papers were frequently detained on that account and would like to know what was being done to address that problem. It was unclear whether Ecuadorian citizenship was granted to the Ecuador-born children of illegal immigrants, what would happen if such parents were reluctant to register a child and whether they risked deportation if they proceeded with the formalities.

54. Ms. GAITAN DE POMBO said she noted that the 1997 National Human Rights Plan had been prepared in consultation with civil society, that it was to be implemented in close cooperation with the United Nations and inter-American human rights bodies, and that its status was that of a long-term State policy document. Provision was made for specific activities, particularly in the area of collective rights, including those of the Afro-Ecuadorian and

indigenous communities. She noted that Ecuador had ratified the Convention on the Prevention and Punishment of the Crime of Genocide but was concerned about the reference in paragraph 84 of the report to genocidal practices and ethnic cleansing in certain regions. She would like to know whether specific action had been taken to stamp out such practices and whether those responsible had been called to account.

55. Although the Commission for Truth and Justice had received reports of over 200 cases of serious human rights violations following its establishment in 1996, the addendum to the report stated that it had disappeared de jure owing to a lack of funding. She would like to know what the Commission had achieved in terms of the promotion and protection of human rights and what body was currently carrying out its responsibilities.

56. Mr. BUERGENTHAL said he very much regretted that the hard work that had gone into the preparation of the addendum to the Ecuadorian report had been largely wasted in terms of the current dialogue. That was a disgraceful situation which reflected a lack of proper respect for a State party.

57. With regard to the case of the Restrepo brothers, Ecuador deserved credit for reaching a settlement and paying compensation of $2 million. It had done so, however, only after the Inter-American Commission on Human Rights had concluded that there had been a very serious violation. He would like to know what sentences had been imposed on the police officers found guilty of the offences involved.

58. Paragraph 121 of the report stated that 70 per cent of detainees were awaiting trial or sentencing. He asked whether there had been any improvement in that figure in the meantime, whether there was a system of provisional release on bail and, if so, how it operated and whether it was true that it applied only to individuals charged with an offence punishable by a prison sentence of less than one year.

59. Under the new system, persons in pre-trial detention for a period equivalent to one third of the maximum sentence for the offence with which they were charged were to be released. Their situation was still, however, incompatible with the presumption of innocence and amounted to a form of punishment. The representative of Ecuador had stated that persons released after detention without trial were entitled to compensation. He would like to know whether there was a specific law to that effect, in addition to the relevant article of the Constitution and whether anybody had benefited to date from its provisions?

60. Mr. KLEIN commended Ecuador on having submitted its fourth report to the Committee, thus laying the foundations for an ongoing and constructive dialogue. He assumed that the statement in article 1 of the Constitution that Ecuador was a multicultural and multi-ethnic country had normative implications and wondered whether any specific legal steps had been taken to back it up. Paragraph 285 mentioned a proposal to amend the Constitution so as to recognize Ecuador as a multinational State. If a consensus was reached on that issue, what were the possible implications?

61. He wished to know how many indigenous people and Afro-Ecuadorians held office in the Government or the judiciary. The representative of Ecuador had stated that it was difficult to distinguish the groups in question and that the issue was viewed as somewhat unorthodox in an open and united society such as that of Ecuador. That answer was not satisfactory. The very fact that indigenous people and Afro-Ecuadorians were the poorest sectors of the population indicated that they deserved special attention and needed to be distinguished from the majority.

62. According to paragraph 9 of the report, the great majority of the provisions of the Covenant had been incorporated into Ecuadorian internal law, whereas paragraph 10 asserted that the rights established in international treaties were fully protected by the Constitution. He would like to know which provisions of the Covenant had not been incorporated into Ecuadorian law.

63. According to paragraph 150 of the report, article 18 of the Immigration Act stated that police officials of the Immigration Service could allow aliens who had entered the country legally to leave the country of their own free will. He asked for an explanation of the meaning of that provision.

64. Mr. BHAGWATI commended the Ecuadorian authorities on their detailed report and on the 1996 constitutional reforms that had led to the establishment of the office of the Ombudsman, the Ad Hoc Commission on Human Rights and the Commission for Truth and Justice. He was also gratified to learn that Ecuador had abolished the death penalty many years previously.

65. According to paragraph 7 of the report, international treaties to which Ecuador was a party formed part of the legal system provided that they did not run counter to the Constitution and other laws. The implication was that, if part of a treaty was inconsistent with the Constitution and laws, it would not be given precedence. If that was indeed the case, he would like to know whether the Government intended to take the necessary steps to give primacy to the rights set forth in the Covenant.

66. He was interested in learning how the right to amparo was exercised in practice and whether any actions taken by the Government, or legislation enacted by Parliament, had been declared unconstitutional following an application for amparo. He also inquired how may cases of disappearances or of ill-treatment of detainees had been brought to light, and what action had been taken to deal with them and, with reference to paragraph 45 of the report, under what law the keeping of databases on citizens by public or private bodies was authorized.

67. Paragraph 38 stated that the Constitutional Court consisted of three members of the judiciary, three members of the legislature, and three members of the executive. If that was so, it was difficult to see how respect for the principle of the separation of the executive from the judiciary was ensured. The figures in the tables in paragraph 93 implied that a considerable percentage of the population was not covered by health insurance and had no access to medical services and he wondered what steps the Government intended to take to remedy that situation. Was any action planned to increase the number of women members of the judiciary?

68. Lastly, paragraph 122 of the report stated that applications for habeas corpus were dealt with by mayors. He would like to know, therefore, whether mayors in Ecuador were elected or appointed, and whether there was any machinery for appealing against their decisions in respect of such applications.

69. Mr. SCHEINEN, having noted that Ecuador had recently ratified ILO Convention No. 169, said that the interior of the country was home to eight separate indigenous groups, with a total population of some 500,000. Oil exploitation had had a number of adverse effects on the life of those groups, including deforestation and serious health problems caused by contamination of water supplies by toxic wastes, as well as by infections brought in by outsiders. It had also led to the deterioration of traditional forms of economic life and culture through the disappearance of fish and wildlife, the destruction of rainforest resources, and the loss of crops and domestic animals.

70. He wished to know, therefore, whether any procedures for proper consultation had been introduced in respect of the exploitation of land traditionally occupied by indigenous groups, and whether there were any facilities to enable a proper assessment to be made of their situation from the health, environmental and legal points of view. ILO Convention No. 169 contained a provision to the effect that, even when the State held the rights to subsurface minerals, there should still be full consultation with the inhabitants of the land under which they lay. Were steps being taken to ensure that indigenous groups continued to benefit from their traditional forms of economic life while oil and other subsurface resources were being exploited?

71. With respect to the points made by Ms. Medina Quiroga, he recalled that the Committee had concluded in respect of the reports of certain other States parties that strict prohibition of abortion, even in cases of rape, did raise issues under articles 6 and 7 of the Covenant in that it might affect the right to life by encouraging resort to illegal abortion, and might constitute inhuman or degrading treatment for the woman concerned. Did Ecuador comply with articles 6 and 7 of the Covenant in that regard?

72. There were reportedly a large number of children in Ecuador without name or nationality: could the delegation indicate if any steps were being taken to deal with that problem, so that the Committee could assess whether, article 24, paragraphs 2 and 3, of the Covenant were being complied with?

73. Ms. EVATT said she would appreciate clarification concerning the extent to which illegal abortion contributed to Ecuador's high rate of maternal mortality. She also wondered whether the unusually high rate of suicides among females under the age of 20 revealed in the tables in paragraph 94 of the report were connected with a high rate of unwanted pregnancies.

74. With regard to employment, the exclusion of women from the Stock Exchange seemed curious. She noted that there were very few women in the professions generally, and that equal pay, particularly in the private sector, was far from being achieved. She asked whether there were any laws to

prohibit discrimination against women, and how easy it would be in practice for a woman to bring an action for discrimination. Were there other, less formal complaints procedures which would provide effective remedies?

75. With reference to paragraph 59 of the report, she would like to know whether there were any programmes in place to protect women who were victims of trafficking, and what was being done to amend the Penal Code in that regard.

76. It had been stated that, under the Constitution, the education of children at the elementary and intermediate levels was compulsory but it was unclear what proportion of the children actually achieved those levels of education and whether girls or children in rural areas were at a disadvantage. The Committee was concerned at reports of extensive corporal punishment in the schools, and hoped that action was being taken to remedy that situation.

77. On the question of child labour, she noted that education programmes were provided for urban children working to help support their families, but that many thousands of children working in the rural sector appeared to be deprived of schooling. The report suggested that the situation was worsening, and she would like to know what action was being taken. Lastly, she would like to know what was being done to ensure that refugees were documented and the births of their children registered, and what was the effect of the Suárez Rosero decision on pre-trial detention in narcotics cases.

78. Mr. KRETZMER said that article 9, paragraph 3, of the Covenant provided that it should not be the general rule that persons awaiting trial should be detained in custody. Paragraph 116 of the report stated that a judge could order a person to be remanded in custody "when he considered it necessary" and he wished to know what a judge would regard as sufficient grounds for making such an order, whether the person detained would have the right of appeal and, conversely, whether a judge could refuse to place a person in pre-trial detention on the grounds that prison overcrowding was such that the order would constitute a violation of article 10 of the Covenant.

79. According to the report on Ecuador by the Inter-American Commission on Human Rights, prison officials estimated that most of those held in pre-trial detention would have to wait at least two years before charges were brought against them. Under the new law whereby no one could be detained for more than one third of the maximum possible sentence for the alleged offence, a person could presumably be held for as long as three years if the maximum sentence for his alleged offence was 10 years. Could the delegation provide statistics of the average time spent in pre-trial detention under that new law?

80. Mr. ANDO said, with reference to paragraph 78 of the report, that he would like to know whether the state of emergency in Ecuador notified to the Inter-American Commission on Human Rights had also been notified to the Secretary-General of the United Nations, as required under the Committee's own procedures.

81. In his view, the effects of oil exploitation on indigenous populations related not only to article 27 of the Covenant (the rights of minorities) but

also to article 6 (the right to life). Were those indigenous peoples entitled to compensation for any damage they had suffered, and what legal remedies were available to them to claim such compensation? In addition to being consulted, were they given the opportunity to make their wishes know when plans were being made and decisions taken regarding the exploitation of natural resources, and were they guaranteed a fair share of the resultant benefits?

82. Mr. EL SHAFEI said he welcomed the account given in the report of new legal and political reforms which had led to improved guarantees of human rights. With reference to paragraph 78, he asked how the Constitutional Court differed from the Court of Constitutional Guarantees and whether the latter was the only body entitled to declare or revoke a state of emergency. Could the delegation elaborate on the impact of the legal reforms referred to in paragraph 6 on the country as a whole, and indicate whether, despite those reforms, there was still a backlog of cases in the courts?

83. Lastly, he congratulated Ecuador on its adoption of a National Human Rights Plan in response to the resolution adopted by the Vienna Conference on the subject.

84. Mr. YALDEN said he noted that the National Human Rights Plan, although referred to in the addendum document, had not yet been made available to the Committee.

85. The figures given in the tables contained in paragraph 75 of the report regarding cases of sexual violence revealed a very low conviction rate in relation to the number of complaints made, and he would appreciate clarification. With reference to paragraph 286, he would like to know to what extent the indigenous languages, particularly Quichua, were used in education, business and the conduct of public affairs. Very little was said either in the original report or in the addendum about the participation of indigenous peoples in public life, and he would welcome some more details.

86. Mr. POCAR said he noted that Ecuador's new Constitution provided for derogation from certain of its articles, including those relating to the right to a fair trial and the right of the accused not to be compelled to give evidence against himself, in the event of a national emergency. He wondered why provision for such derogations had been included, especially in the light of the question raised in the Committee's list of issues to be taken up in connection with the report of Ecuador concerning the safeguards and remedies available in a state of emergency. Derogation from such basic principles might be dangerous if an emergency situation were to arise in the future.

The meeting rose at 1 p.m.